

Indiana Department of Education

Division of Exceptional Learners

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER:	1849.01
COMPLAINT INVESTIGATOR:	Sandie Scudder
DATE OF COMPLAINT:	December 28, 2001
DATE OF REPORT:	January 22, 2002
REQUEST FOR RECONSIDERATION:	yes/revised February 26, 2002
DATE OF CLOSURE:	February 27, 2002

**COMPLAINT ISSUES:**

Whether the MSD of Perry Township and the RISE Special Services violated:

-511 IAC 7-27-4(a)(5) by failing to convene a case conference committee (CCC) meeting within 10 instructional days of enrollment of a student who had been receiving special education services in another state.

-511 IAC 7-27-4(c)(3) by failing to ensure the CCC considered strategies, including positive behavioral interventions and support, to address a student's behavior that impedes his or her learning or that of others.

**FINDINGS OF FACT:**

1. The student (Student) is 12 years old, is in 7<sup>th</sup> grade, and is eligible for special education and related services as a student with another health impairment.
2. The director states that the Student moved from out-of-state, and enrolled in school on February 8, 2001. The Student's record did not include a current IEP. Before moving to Indiana during the second half of the 2000-2001 school year, the parent unilaterally enrolled the Student in a local private school near her home. Although the complainant reports that the Student did have a current IEP, an IEP dated April 21, 1998, documents that the Student was determined no longer eligible for special education. The parent asserts that the private school the Student attended immediately prior to moving to Indiana was solely for students with disabilities. However, information on the private school indicates that it was for sixth through twelfth grade students with a curriculum designed to "meet the objective of obtaining a high school diploma and of preparing students for higher education." Although the private school accepted students with LD and ADHD, the school's enrollment was not limited to students with disabilities. At the Complainant's request, the Student was evaluated on August 29, 2001. The CCC Report dated September 13, 2001, states on page 8 that the Student is not eligible for special education. The Complainant signed the CCC report in agreement with this determination.
3. The Complainant states that the Student transferred to the current school on October 4, 2001. After noting concerns about the Student's inattentiveness, behavioral rating skills were completed on November 6, 2001. On December 4, 2001, the CCC reconvened and determined the Student eligible for special education and related services. An IEP was developed, but the Complainant has not signed the December 4, 2001, IEP, because the Student does not have a behavioral intervention plan (BIP). The CCC Report/IEP dated December 4, 2001, does not indicate that the Student needs

a BIP.

4. The director stated that a Functional Behavior Assessment (FBA) and BIP were not addressed during the December 4, 2001, CCC meeting, although the CCC did note difficulties with tardies. The Student has an ongoing problem of arriving late to school in the morning and to classes during the school day. Page 5 of the December 4, 2001, CCC Report, states that the Student's behavior does not impede her learning or that of others. The CCC Report did not address how the issue of tardies will be dealt with.

## **CONCLUSIONS:**

1. Finding of Fact #2 establishes that, although the Student had been eligible for special education services at one time, the Student's eligibility was terminated in 1998. At the time of the Student's transfer to school in Indiana, the Student was enrolled in a private school and had not been receiving any special education services from the public school in the other state. Therefore, the School was not required to convene a CCC, and no violation of 511 IAC 7-27-4(a)(5) is found.
2. Findings of Fact #3 and #4 reveal that the CCC Report/IEP dated December 4, 2001, documents that the Student's behavior does not impede her learning or that of others, and does not indicate the need for a BIP. Therefore, no violation of 511 IAC 7-27-4(c)(3) is found.

**The Department of Education, Division of Special Education requires no corrective action based on the Findings of Fact and Conclusions listed above.**